



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 29 2016

CERTIFIED MAIL 7009 1680 0000 7642 3120

RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Mr. Andrew J. Cairns
President
Gascoigne Company
1304 South West Avenue
Waukesha, Wisconsin 53186

Re: Notice of Violation
Compliance Evaluation Inspection
WID 006 120 141

Dear Mr. Cairns:

On July 13, 2016 a representative of the U.S. Environmental Protection Agency inspected the Gascoigne Company facility located in Waukesha, Wisconsin (Gascoigne). As a large quantity generator of hazardous waste, Gascoigne is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA). The purpose of the inspection was to evaluate Gascoigne's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by Gascoigne, EPA's review of records pertaining to Gascoigne, and the inspector's observations, EPA has determined that Gascoigne has unlawfully stored hazardous waste without a license or interim status as a result of Gascoigne's violation of certain requirements for a license exemption under Wisconsin Administrative Code (WAC) § NR 662.034(1)-(3). EPA has identified the license exemption requirements violated by Gascoigne as of the date of the inspection in paragraphs 1 and 2, below.

Also, EPA has determined that Gascoigne violated RCRA requirements related to hazardous waste determination and universal waste as described in paragraphs 3 and 4, below.

STORAGE OF HAZARDOUS WASTE WITHOUT A LICENSE OR INTERIM STATUS

At the time of the inspection, Gascoigne violated the following large quantity generator license exemption requirements:

1. Under WAC § NR 662.034(1) [40 C.F.R. § 262.34(a)], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim status unless the generator has been granted an extension of the 90-day period. The generator must comply with the requirements for owners or operators in

Subchapter C (preparedness and prevention) and subchapter D (contingency plan and emergency procedures) of Chapter NR 665 and sections NR 665.0016 and 668.07(1)(e). See, WAC § NR 662.034(1)(d) [40 C.F.R. § 262.34(a)(4)]. Specifically, a copy of the contingency plan and all revisions to the plan must be submitted to all local police departments, fire departments, hospitals and state and local emergency response teams that may be called upon to provide emergency services. See, WAC § NR 665.0053(2) [40 C.F.R. § 265.53(b)].

At the time of the inspection, Gascoigne had not distributed copies of the contingency plan to local police departments or the local hospital that may be called upon to provide emergency services.

2. Under WAC § NR 662.034(1) [40 C.F.R. § 262.34(a)], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a license or interim status unless the generator has been granted an extension of the 90-day period. The generator must comply with the requirements for owners or operators in Subchapter C (preparedness and prevention) and subchapter D (contingency plan and emergency procedures) of Chapter NR 665 and sections NR 665.0016 and 668.07(1)(e). See, WAC § NR 662.034(1)(d) [40 C.F.R. § 262.34(a)(4)]. Specifically, the contingency plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external) and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities. See, WAC § NR 665.0052(5) [40 C.F.R. § 265.52(b)].

At the time of the inspection, Gascoigne had not included a list of emergency equipment in the site specific contingency plan.

OTHER VIOLATIONS

3. Hazardous Waste Determination Requirement

Under WAC § NR 662.011 [40 CFR 262.11], a person who generates a solid waste, as defined in WAC § NR 661.02, must determine if that waste is a hazardous waste using methods (1) or (2). In addition, for purposes of compliance with Chapter NR 668, or if the waste is not listed in subchapter D (lists of hazardous wastes) of Chapter NR 661, the generator must then determine whether the waste is identified in subchapter C (characteristics of hazardous waste) of Chapter NR 661 by any of the following: (a) Testing the waste according to the methods set forth in subchapter C (characteristics of hazardous waste) of Chapter NR 661, or according to an equivalent method approved by WDNR under WAC § NR 600.21; (b) Applying knowledge of

the hazardous characteristics of the waste in light of the materials or the processes used. See, WAC § NR 662.011(3)(a) and (b) [40 CFR 261.11(c)(1) and (2)].

At the time of the inspection, Gascoigne had not tested the stainless steel blasting used media. Please include a copy of the stainless steel blasting media analytical results with your response.

4. Universal Waste Requirements

Under WAC § NR 673.13(4)(a) [40 CFR § 273.13(d)(1)], a small quantity large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions. Also, under WAC § NR 673.14(5) [40 CFR § 273.14(e)], each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with the phrase “Universal Waste-Lamps”, “Waste Lamps” or “Used Lamps”. Also, under WAC § NR 673.15(2) [40 CFR § 273.15(b)], a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of subsection (2) are met.

Gascoigne is a small quantity handler of universal waste because it does not accumulate more than 5,000 kilograms (11,025 pounds) of universal waste at any time.

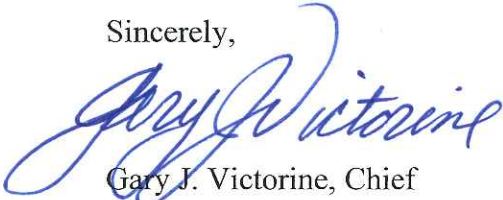
At the time of the inspection, Gascoigne’s containers of used lamps were not closed or not containerized and were not labeled with the phrase “Universal Waste-Lamps,” “Waste Lamps” or “Used Lamps,” see photograph number 2. In addition, the last outbound shipment of used fluorescent lamps was on September 17, 2014.

At this time, EPA is not requiring Gascoigne to apply for a Wisconsin hazardous waste storage license so long as it immediately establishes compliance with the conditions for a license exemption outlined in paragraphs 1 and 2, above.

According to Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. Although this letter is not such an order or a request for information under Section 3007 of RCRA, 42 U.S.C. § 6927, we request that you submit a response in writing to us no later than 30 days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to establish compliance with the above conditions and universal waste requirements. You should submit your response to Walt Francis, U.S. EPA, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.

If you have any questions regarding this letter, please contact Mr. Walt Francis, of my staff, at 312-353-4921 or at francis.walt@epa.gov.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosures

cc: Randy Malek, WDNR-Waukesha Service Center
(randall.malek@wisconsin.gov)
Michael Ellenbecker, WDNR-Sturtevant Service Center
(michael.ellenbecker@wisconsin.gov)